

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NATIONAL LIFE INSURANCE COMPANY,

Plaintiff,

ORDER

19-CV-4597 (NGG) (CLP)

-against-

WEI DONG and RU CHEN,

Defendants.

NICHOLAS G. GARAUFIS, United States District Judge.

Plaintiff National Life Insurance Company (“National”) brought this action against Defendants Wei Dong and Ru Chen, seeking a declaratory judgment that a life insurance policy (“the Policy”) issued by Plaintiff on Dong’s life is void – either *ab initio* or as against public policy – because Defendants procured the policy fraudulently as part of a scheme to fake Dong’s death and collect his life insurance benefits. (Compl. (Dkt. 1) ¶ 4.) After Defendants failed to answer or otherwise respond to the Complaint, the Clerk of Court entered a certificate of default and Plaintiff moved for default judgment. (See Clerk’s Entry of Default (Dkt. 10); Mot. for Default J. (Dkt. 19).) The court referred Plaintiff’s motion to Magistrate Judge James Orenstein for a Report & Recommendation. (See April 14, 2020 Order Referring Mot.) Following Judge Orenstein’s retirement, the case was reassigned to Chief Magistrate Judge Cheryl L. Pollak. (See Nov. 12, 2020 Notice of Case Reassignment.)

On March 8, 2021, Judge Pollak issued a Report and Recommendation (“R&R”) in which she recommended that the court grant Plaintiff’s Motion for Default Judgment, declare the Policy void *ab initio* on the basis of Defendants’ fraudulent scheme, and permit Plaintiff to rescind the Policy and retain the premiums paid in order to offset the fees, costs, and expenses it incurred in investigating Defendants’ scheme. (R&R (Dkt. 24) at 16.)

No party has objected to Judge Pollak’s R&R, and the time to do so has passed. See Fed. R. of Civ. P. 72(b)(2). Therefore, the court reviews the R&R for clear error. See *Gesualdi v. Mack Excavation & Trailer Serv., Inc.*, No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); *La Torres v.*

Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). Having found none, the court ADOPTS the (Dkt. 24) R&R in full and GRANTS Plaintiff's (Dkt. 19) Motion for Default Judgment. The court declares the Policy void *ab initio*. Plaintiff may rescind the Policy and retain the \$20,791.04 balance on the premiums.

SO ORDERED.

Dated: Brooklyn, New York
April 16, 2021

/s/ Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge